

there is no duplication of benefits, deficiency payments made in accordance with part 1413 of this chapter and emergency livestock feed program benefits made in accordance with part 1475 of this chapter shall not be made with respect to any loss of production for which assistance is requested under this part. Accordingly, the quantity of the loss of production otherwise eligible for disaster assistance under this part on which a producer had previously obtained a deficiency payment or an emergency livestock feed program benefit shall be reduced. In order to make such a reduction, the deficiency payments and emergency livestock feed program benefits, except those payments applicable to the 1993 or 1994 crop year, shall be adjusted by a national factor obtained by:

(1) Dividing the sum of the applicable fund available and such reduced payments by

(2) The total amount of claims submitted during each applicable signup period. If the total amount of funds is insufficient to result in payments to producers during the initial, subsequent and final signup periods at the rate of .5004, the Secretary shall use such funds of the Commodity Credit Corporation as are necessary to make payments at such a rate.

(f) For the purpose of determining the payment limitation imposed by this section, disaster payments shall be attributed to each eligible producer in accordance with § 1477.5(f). The reduction of any eligible producer's disaster payment share shall not increase the disaster payment share of any other producer.

[57 FR 10963, Mar. 31, 1992, as amended at 58 FR 51760, Oct. 5, 1993; 60 FR 52613, Oct. 10, 1995]

§ 1477.11 Special provisions for burley and flue-cured tobacco, and peanuts.

(a)(1) For burley and flue-cured tobacco, the undermarketings from the applicable crop year that may be considered when determining the effective farm marketing quota for the year succeeding the disaster crop year shall be the applicable crop year's actual undermarketing less the quantity of the loss of production for which an disaster

payment is made for the respective kind of tobacco.

(2) If quota is leased and transferred from the farm under natural disaster provisions of parts 723 of this title, any disaster payment that was determined before such lease and transfer was approved shall be recomputed according to § 1477.5. The farm marketing quota that is in effect after such lease and transfer shall be used when recomputing the disaster payment. The amount of any overpayment that results from the recomputation shall be refunded with interest as provided in § 1477.12(b).

(b)(1) For peanuts, the undermarketings from the applicable year's crop that may be claimed when determining future poundage quotas shall be the applicable year's actual undermarketings less the quantity of the loss of production for which a applicable year's disaster payment is made on the basis of the national support level for quota peanuts. This reduction could exceed the actual undermarketings which would result in "negative" undermarketings shall be taken into consideration when determining the subsequent year's effective farms poundage quota.

(2) If quota is transferred from the farm under the fall transfer provisions of part 729 of this title, any disaster payment that was determined before such transfer was approved shall be recomputed according to the provisions in § 1477.5. The amount of any overpayment that results from the recomputation shall be refunded with interest as provided in § 1477.13(b).

(c) All operators and owners of tobacco or peanut farms must sign the application for disaster.

[57 FR 10963, Mar. 31, 1992, as amended at 60 FR 52613, Oct. 10, 1995]

§ 1477.12 Misrepresentation, scheme and device, and fraud.

(a) If CCC determines that any producer has erroneously represented any fact or has adopted, participated in, or benefitted from, any scheme or device which has the effect of defeating, or is designed to defeat the purpose of this part, such producer shall not be eligible for disaster payments under this part and all payments previously made to any such producer shall be refunded to CCC. The amount paid to CCC shall

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include any interest and other amounts as determined in accordance with this part.

(b) If any misrepresentation, scheme or device, or practice has been employed for the purpose of causing CCC to make a payment with CCC under this part otherwise would not make, all amounts paid by CCC to any such producer shall be refunded to CCC together with interest and other amounts as determined in accordance with this part, and no further disaster payments shall be made to such producer by CCC.

(c) If the county committee determines that any producer has adopted or participated in any practice which tends to defeat the purpose of the program established in accordance with this part, the county committee request the refund of all or part of the payments which otherwise would be due the producer under this part.

[57 FR 10963, Mar. 31, 1992, as amended at 58 FR 9110, Feb. 19, 1993]

§ 1477.13 Refunds to CCC.

(a) In the event that there is a failure to comply with any term, requirement, or condition for payment made in accordance with this part, all such payments made to the producer shall be refunded to CCC, together with interest.

(b) Interest shall be charged with respect to any refund which is determined to be due CCC at the rate of interest which CCC is required to pay for its borrowing from the United States Treasury as of the date of the disbursement by CCC of the moneys to be refunded. Interest shall accrue from the date of such disbursement by CCC. Upon the sending of the notification of the debt by CCC to the producer, the account shall bear late payment charges to be assessed in accordance with the provisions of, and subject to the rates prescribed in, part 1403 of this chapter. If, for any reason, no late payment charges may be assessed with respect to such account under the provisions of part 1403 of this chapter, additional charges on the account will accrue at the rate equal to the applicable rate for CCC borrowing from the United States Treasury plus three percent per annum.

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(c) Producers must refund to CCC any excess payments made by CCC.

(d) In the event that the loss of production was established as a result of erroneous information provided by any person to the county FSA office or was erroneously computed by such office, the loss of production shall be recomputed and the payment due shall be corrected as necessary. Any refund of payments which are determined to be required as a result of such recomputation shall be remitted to CCC.

[57 FR 10963, Mar. 31, 1992, as amended at 60 FR 52613, Oct. 10, 1995]

§ 1477.14 Cumulative liability.

(a) The liability of any producer for any payment or refund which is determined in accordance with this part to be to CCC shall be in addition to any other liability of such producer under any civil or criminal fraud statute or any other statute or provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729.

(b) Producers earning benefits shall be liable for any required repayment of deficiency payments on a farm not paid by another producer on that farm.

§ 1477.15 Appeals.

Reconsideration and review of all determinations made in accordance with this part with respect to a farm or an individual producer shall be made in accordance with part 780 of this title.

§ 1477.16 Liens.

Any payment which is due any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, and the proceeds thereof, which may be asserted by any creditor, except agencies of the United States Government.

§ 1477.17 Estates, trusts, and minors.

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is an otherwise eligible owner shall be eligible for assistance under this subpart only if such